

111TH CONGRESS  
1ST SESSION

# H. R. 1116

To improve the process through which loan originators participate in FHA mortgage programs, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 23, 2009

Ms. WATERS (for herself, Ms. SPEIER, and Mr. DRIEHAUS) introduced the following bill; which was referred to the Committee on Financial Services

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## A BILL

To improve the process through which loan originators participate in FHA mortgage programs, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Honest FHA Origina-

5       tor Act of 2009”.

6       **SEC. 2. REQUIREMENTS FOR FHA-APPROVED MORTGA-**  
7       **GEES.**

8       (a) MORTGAGEE REVIEW BOARD.—Paragraph (2) of  
9       section 202(c) of the National Housing Act (12 U.S.C.  
10       1708(c)) is amended—

1           (1) in subparagraph (E), by inserting “and”  
2     after the semicolon;

3           (2) in subparagraph (F), by striking “; and”  
4     and inserting a period; and

5           (3) by striking subparagraph (G).

6           (b) LIMITATIONS ON PARTICIPATION AND MORT-  
7     GAGEE APPROVAL AND USE OF NAME.—Section 202 of  
8     the National Housing Act (12 U.S.C. 1708) is amended—

9           (1) by redesignating subsections (d), (e), and  
10    (f) as subsections (e), (f), and (g), respectively;

11           (2) by inserting after subsection (c) the fol-  
12    lowing new subsection:

13           “(d) LIMITATIONS ON PARTICIPATION IN ORIGINA-  
14    TION AND MORTGAGEE APPROVAL.—

15           “(1) REQUIREMENT.—Any person or entity  
16    that is not approved by the Secretary to serve as a  
17    mortgagee, as such term is defined in subsection  
18    (c)(7), shall not participate in the origination of an  
19    FHA-insured loan except as authorized by the Sec-  
20    retary.

21           “(2) ELIGIBILITY FOR APPROVAL.—In order to  
22    be eligible for approval by the Secretary, an appli-  
23    cant mortgagee shall not be, and shall not have any  
24    officer, partner, director, principal, or employee of  
25    the applicant mortgagee who is—

1           “(A) currently suspended, debarred, under  
2           a limited denial of participation (LDP), or oth-  
3           erwise restricted under part 24 or 25 of title 24  
4           of the Code of Federal Regulations, or any suc-  
5           cessor regulations to such parts, or under simi-  
6           lar provisions of any other Federal agency;

7           “(B) under indictment for, or has been  
8           convicted of, an offense that reflects adversely  
9           upon the applicant’s integrity, competence or  
10          fitness to meet the responsibilities of an ap-  
11          proved mortgagee;

12          “(C) subject to unresolved findings con-  
13          tained in a Department of Housing and Urban  
14          Development or other governmental audit, in-  
15          vestigation, or review;

16          “(D) engaged in business practices that do  
17          not conform to generally accepted practices of  
18          prudent mortgagees or that demonstrate irre-  
19         >sponsibility;

20          “(E) convicted of, or who has pled guilty  
21          or nolo contendere to, a felony related to partici-  
22          pation in the real estate or mortgage loan in-  
23          dustry—

1 “(i) during the 7-year period pre-  
2 ceding the date of the application for li-  
3 censing and registration; or

4 “(ii) at any time preceding such date  
5 of application, if such felony involved an  
6 act of fraud, dishonesty, or a breach of  
7 trust, or money laundering;

8 “(F) in violation of provisions of the  
9 S.A.F.E. Mortgage Licensing Act of 2008 (12  
10 U.S.C. 5101 et seq.) or any applicable provision  
11 of State law; or

12 “(G) in violation of any other requirement  
13 as established by the Secretary.”; and

14 (3) by adding at the end the following new sub-  
15 section:

16 “(h) USE OF NAME.—The Secretary shall, by regula-  
17 tion, require each mortgagee approved by the Secretary  
18 for participation in the FHA mortgage insurance pro-  
19 grams of the Secretary—

20 “(1) to use the business name of the mortgagee  
21 that is registered with the Secretary in connection  
22 with such approval in all advertisements and pro-  
23 motional materials, as such terms are defined by the  
24 Secretary, relating to the business of such mort-  
25 gagee in such mortgage insurance programs; and

1 “(2) to maintain copies of all such advertise-  
2 ments and promotional materials, in such form and  
3 for such period as the Secretary requires.”.

4 (c) CHANGE OF STATUS.—The National Housing Act  
5 is amended by striking section 532 (12 U.S.C. 1735f–10)  
6 and inserting the following new section:

7 **“SEC. 532. CHANGE OF MORTGAGEE STATUS.**

8 “(a) NOTIFICATION.—Upon the occurrence of any ac-  
9 tion described in subsection (b), an approved mortgagee  
10 shall immediately submit to the Secretary, in writing, noti-  
11 fication of such occurrence.

12 “(b) ACTIONS.—The actions described in this sub-  
13 section are as follows:

14 “(1) The debarment, suspension of a Limited  
15 Denial of Participation (LDP), or application of  
16 other sanctions, fines, or penalties applied to the  
17 mortgagee or to any officer, partner, director, prin-  
18 cipal, manager, supervisor, loan processor, loan un-  
19 derwriter, or loan originator of the mortgagee pursu-  
20 ant to applicable provisions of State or Federal law.

21 “(2) The revocation of a State-issued mortgage  
22 loan originator license issued pursuant to the  
23 S.A.F.E. Mortgage Licensing Act of 2008 (12  
24 U.S.C. 5101 et seq.) or any other similar declaration  
25 of ineligibility pursuant to State law.”.

1 (d) CIVIL MONEY PENALTIES.—Section 536 of the  
2 National Housing Act (12 U.S.C. 1735f–14) is amend-  
3 ed—

4 (1) in subsection (b)—

5 (A) in paragraph (1)—

6 (i) in the matter preceding subpara-  
7 graph (A), by inserting “or any of its own-  
8 ers, officers, or directors” after “mort-  
9 gagee or lender”;

10 (ii) in subparagraph (H), by striking  
11 “title I” and all that follows through “Act  
12 of 1989)” and inserting “title I or II”; and

13 (iii) by inserting after subparagraph  
14 (J) the following:

15 “(K) Violation of section 202(d) of this  
16 Act (12 U.S.C. 1708(d)).”; and

17 (B) in paragraph (2)—

18 (i) in subparagraph (B), by striking  
19 “or” at the end;

20 (ii) in subparagraph (C), by striking  
21 the period at the end and inserting “; or”;  
22 and

23 (iii) by adding at the end the fol-  
24 lowing new subparagraph:

1           “(D) causing or participating in any of the  
2           violations set forth in paragraph (1) of this sub-  
3           section.”; and

4           (2) in subsection (g), by striking “The term”  
5           and all that follows through the end of the sentence  
6           and inserting “For purposes of this section, a person  
7           acts knowingly when a person has actual knowledge  
8           of acts or should have known of the acts.”.

9           (e) EXPANDED REVIEW OF FHA MORTGAGEE AP-  
10          PLICANTS AND NEWLY APPROVED MORTGAGEES.—Not  
11          later than the expiration of the 3-month period beginning  
12          upon the date of the enactment of this Act, the Secretary  
13          of Housing and Urban Development shall—

14               (1) expand the existing process for reviewing  
15               new applicants for approval for participation in the  
16               mortgage insurance programs of the Secretary for  
17               mortgages on 1- to 4-family residences for the pur-  
18               pose of identifying applicants who represent a high  
19               risk to the Mutual Mortgage Insurance Fund; and

20               (2) implement procedures that, for mortgagees  
21               approved during the 12-month period ending upon  
22               such date of enactment—

23                       (A) expand the number of mortgages origi-  
24                       nated by such mortgagees that are reviewed for

1 compliance with applicable laws, regulations,  
2 and policies; and

3 (B) include a process for random reviews  
4 of such mortgagees and a process for reviews  
5 that is based on volume of mortgages originated  
6 by such mortgagees.

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